

Introduced by Senator Morrow

February 16, 2005

An act to amend Section 1239 of the Penal Code, relating to appeals.

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as introduced, Morrow. Automatic appeals: waiver of right.

Existing law grants a defendant an automatic appeal if he or she is sentenced to death.

This bill would allow a defendant to waive that automatic appeal in writing.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1239 of the Penal Code is amended to
2 read:
3 1239. (a) ~~Where an appeal lies on behalf of the defendant or~~
4 ~~the people, it~~ An appeal may be taken by the defendant or his or
5 her counsel, or by counsel for the people, in the manner provided
6 in rules adopted by the Judicial Council.
7 (b) (1) When upon any plea a judgment of death is rendered,
8 an appeal is automatically taken by the defendant without any
9 action by him or her or his or her counsel. The defendant's trial
10 counsel, whether retained by the defendant or court appointed,
11 shall continue to represent the defendant until completing the
12 additional duties set forth in paragraph (1) of subdivision (e) of
13 Section 1240.1.

1 (2) *A defendant may affirmatively waive the right to an*
2 *automatic appeal in writing.*

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